



Consultation strategy for the Fitness check of State aid rules

1. CONTEXT

DG Competition is carrying out a fitness check of the State aid modernisation ("SAM")¹ package and of the railways guidelines and short-term export credit communication.

In 2012, the Commission launched the SAM reform considering that a more focused framework for the assessment of State aid measures will allow Member States to better contribute both to the implementation of the Europe 2020 strategy for sustainable growth as well as to budgetary consolidation. The objectives of the modernisation of State aid control were threefold: 1) to foster sustainable, smart and inclusive growth in a competitive internal market; 2) to focus Commission's ex ante scrutiny on cases with the biggest impact on the internal market; and 3) to streamline the rules and provide for faster decisions.

In view of these objectives, the Commission has revised several State aid rules in 2013 and 2014 and announced its intention to revise at a later stage other existing rules in light of the objectives of SAM. The current fitness check will cover the General Block Exemption Regulation (GBER)², De minimis Regulation³, Regional aid Guidelines (RAG)⁴, Research, Development and Innovation ("RDI") Framework⁵, Important Projects of Common European Interest ("IPCEI") Communication⁶, Risk finance⁷, Airport and aviation Guidelines⁸, Energy and Environmental Aid Guidelines ("EEAG")⁹, Rescue and restructuring Guidelines¹⁰ but also the Railways Guidelines¹¹ as well as the Short term export credit ("STEC") Communication¹² (the two latter were not included in the 2012 SAM package).

The objective of the fitness check is to assess whether the State aid rules at stake are fit for purpose taking into account the general SAM objectives, the specific objectives of the legal framework (including the "future" legislation already adopted), the current and (already known) future challenges.

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions, EU State aid Modernisation (SAM), C(2012) 209 final.

² OJ L 187 26.6.2014, p. 1 and OJ L 156, 20.6.2017, p. 1–18.

³ OJ L 352, 24.12.2013, p. 1–8.

⁴ OJ C 198 of 27.06.2014, p. 1.

⁵ OJ C 198 of 27.06.2014, p. 1.

⁶ OJ C 188, 20.06.2014, p.4.

⁷ OJ C19, 22.01.2014, p. 4-34.

⁸ OJ C 99, 4.4.2014, p. 3.

⁹ OJ C 200, 28.6.2014, p. 1–55.

¹⁰ OJ C 249, 31.07.2014, p.1.

¹¹ OJ C 184, 22.7.2008, p. 13-31.

¹² OJ C 392, 19.12.2012, p. 1-7.

To this end, the effectiveness, efficiency, coherence, relevance and EU added value of the State aid rules at stake will be assessed in line with the Commissions' evaluation standards set out in the Better Regulation Guidelines¹³ and the Better Regulation Toolbox¹⁴. This includes identifying excessive administrative burdens, overlaps, gaps, inconsistencies and/or obsolete provisions which may have appeared over time since the adoption of the rules.

The findings will serve as a basis for drawing policy conclusions on how well State aid rules at stake have been performing and feed into possible consideration on the future of the relevant regulatory framework.

2. STAKEHOLDER CONSULTATION SCOPE AND OBJECTIVES

2.1. Objective

The objective is to gather evidence from stakeholders on the five evaluation criteria including for the purpose of verifying to which extent the rules reached the envisaged objectives under the SAM package plus objectives the other State aid rules at stake, to which extent consistency has been ensured and whether the original objectives are still in line with the EU priorities under the new Multiannual financial framework, new EU legislation or developments on the internal and global market.

2.2. Stakeholder consultation scope and activities

DG Competition intends to carry out a **public consultation** in order to gather inputs from a broad range of stakeholders. The public consultation should thus reach out to all relevant stakeholders and in addition give unlimited access to everybody who wishes to contribute. The public consultation will take the form of an extensive questionnaire covering certain provisions of **all specific State aid rules** at stake as well as the **horizontal provisions from a SAM perspective**. The public consultation will, among others, aim at **covering the SAM common principles**.

In addition, for certain State aid rules covered by the Fitness check, DG Competition intends to make use of **targeted questionnaires** addressed to the main stakeholders and interested parties (beyond the general public) on specific issues related to the individual policy areas and rules. The stakeholders for the targeted questionnaires will depend on the State aid rules concerned and will include those who are directly impacted by those rules, for example Member States, regional and local authorities, other granting authorities or beneficiaries.

DG Competition also plans to facilitate the gathering of **information from Member States** on the application of the rules in the framework of the Working group of Member States on the state aid modernisation and where relevant by way of written questionnaires.

2.3. Mapping of stakeholders

As described above, the purpose of the stakeholder consultation is to collect evidence and views from stakeholders in order to assess the effectiveness, efficiency, coherence,

¹³ See Commission Better Regulation Guidelines, in particular the chapter on Evaluation and on Impact Assessment, <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>

¹⁴ See Commission Better Regulation Toolbox, in particular Tool # 43 – 52 and Tool # 57 – 65, https://ec.europa.eu/info/sites/info/files/better-regulation-toolbox_2.pdf

relevance and EU added value of the State aid rules at stake. Stakeholders will be requested to give their view and provide information with respect to certain provisions of the specific State aid rules subject to the fitness check as well as the horizontal provisions from a SAM perspective.

As described above, stakeholders for each State aid rules concerned differ and include those who are directly impacted by those rules. Depending on their level of interest and/or influence:

- 1) The main stakeholders are the Member States and other public authorities (for instance regional and local authorities) who design public policies in line with State aid rules and who apply the State aid rules when granting public support. Member States and other public authorities will have a high level of interest.
- 2) Other interested parties whose input could be of value are business (including start-ups), workers' and consumers' associations, relevant NGOs, law firms, as well as the general public. These interested parties might differ depending on the rule. For instance, an environmental NGO maybe interested in the environmental and energy rules, while a transport association in the railways guidelines. Some rules, such as the regional aid rules or RDI, may be interesting for all economic participants.

3. EXPECTED TIMELINE

DG Competition aims at launching the **public consultation** for the evaluation/fitness check of State aid rules in April 2019.

The questionnaire will be published on the Commission's central public consultations page with a link on a [dedicated webpage](#) on the website of DG Competition. The questions will be published in all EU official languages and replies will be welcome in any of the EU official languages. The contributions made to the public consultation will be published on the consultation webpage in the language they were submitted.

The timing of **targeted questionnaires** and the Member States questionnaires will be calibrated in order to ensure the best possible result in terms of number of replies. The tentative timeline for the targeted questionnaires is Q2 2019.

Once the public consultation activities are closed, a report of the results will be published on the consultation pages. The overall stakeholder consultation activities will be presented in a synopsis report as an annex to the Staff Working Document on the fitness check (beginning 2020), on the dedicated webpage of DG Competition and on the [EU Bookshop](#)